

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PJR CONSTRUCTION OF NEW JERSEY, INC.,

Plaintiff,

v.

VALLEY FORGE INSURANCE COMPANY
AND NATIONAL FIRE INSURANCE
COMPANY OF HARTFORD

Defendants.

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CIVIL ACTION NO. 17-CV-_____

NOTICE OF REMOVAL

**TO THE CLERK, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
NEW JERSEY:**

Defendants, Valley Forge Insurance Company (“VFIC”) and National Fire Insurance Company of Hartford (“NFICH”) by and through their undersigned counsel, file this Notice of Removal to remove the above-captioned action, currently pending in the Superior Court of New Jersey, Law Division, Monmouth County, and in support thereof aver as follows:

1. On or about May 11, 2017, Plaintiff, PJR Construction of New Jersey, Inc., commenced this action by filing a Complaint in the Superior Court of New Jersey, Law Division, Monmouth County, Docket No. Mon-L-1818-17, a copy of said Complaint is attached as Exh. A.

2. After May 18, 2017, VFIC received notice of the Complaint. See Exh. B, Service of Process Transmittal on VFIC.

3. After May 18, 2017, NFICH received notice of the Complaint. See Exh. C, Service of Process Transmittal on NFICH.

4. According to Plaintiff’s Complaint, Plaintiff is a New Jersey corporation with a principal place of business in the State of New Jersey. See Exh. A.

5. Upon information and belief, Plaintiff is not a citizen of the Commonwealth of Pennsylvania or the State of Illinois.

6. VFIC is a corporation organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Illinois.

7. NFICH is a corporation organized under the laws of the State of Illinois with its principal place of business in Illinois.

8. This is an insurance coverage action that Plaintiff brought against the defendants to determine the rights and obligations of the parties under certain insurance policies, in connection with Plaintiff's demand for coverage for alleged property damage to a development known as the "Cambridge Club." See Exh. A, par. 11-12.

9. Plaintiff alleged that the damage estimates at the Cambridge Club were in excess of \$75,000. See Exh. A, par. 7.

10. Plaintiff's Complaint seeks a declaratory judgment and unspecified damages, as well as attorneys' fees and costs and such other relief as the court may deem proper and just. See Exh. A. Therefore, the amount in controversy between the parties exceeds the \$75,000.000 jurisdictional limit.

11. This Notice of Removal is being filed pursuant to 28 U.S.C. §1441(a).

12. Pursuant to 28 U.S.C. §1332(a)(1), the United States District Court for the District of New Jersey has original jurisdiction over this civil action because the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, and is between citizens of different states.

13. This Notice of Removal is timely filed pursuant to 28 U.S.C. §1446(b), within thirty (30) days of receipt of the Complaint in the State Action. The Complaint was filed in state

court on May 11, 2017 but Defendants did not even receive notice of the Complaint until after it was mailed on May 17, 2017. See Exhs. B and C hereto.

14. A copy of this Notice of Removal is being filed with the Clerk of Courts, Monmouth County, and is being served upon Plaintiffs pursuant to 28 U.S.C. §1446(d). A copy of the Notice to the Clerk of Courts is attached hereto as Exh. D.

15. This is the proper district for removal pursuant to 28 U.S.C. §§ 118(a) and 1441(a) and (e)(1), in that the District of New Jersey encompasses Monmouth County and is “the district and division embracing the place where such action is pending.”

16. Venue is additionally appropriate in the Trenton vicinage of the District Court for the District of New Jersey according to the vicinage lines for case assignment established by the Court.

17. Upon information and belief, other than the Complaint, there are no other pleadings, orders or other filings in the State Action. See Exh. E, Online Docket Entries for Docket No. Mon-L-1818-17.

18. For the reasons set forth above, the Court has original jurisdiction over this action under 28 U.S.C. §1332, and removal is appropriate under 28 U.S.C. §1441(a)(1).

Respectfully submitted,

Dated: June 12, 2017

CNA COVERAGE LITIGATION GROUP

By: *s/ Edward M. Napierkowski*
Edward M. Napierkowski, Esq.
(NJ Atty. ID #020291987)
Melissa A. Cornibe, Esq.
(NJ Atty. ID #019182000)
Three Radnor Corporate Center
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edward.napierkowski@cna.com
melissa.cornibe@cna.com
Counsel for Defendants,
Valley Forge Insurance Company and
National Fire Insurance Company of
Hartford

Pursuant to Local Rule 11.2, the undersigned hereby certifies that the matter in controversy in this action is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding other than the pending state action that is the subject of this removal.

A handwritten signature in black ink, appearing to read 'Ed M. Napierkowski', written over a horizontal line.

Edward M. Napierkowski

EXHIBIT A

Thomas J. DiChiara, Esq. (ID 013921975)
DRAZIN & WARSHAW, P.C.
25 Reckless Place
Red Bank, NJ 07701
Attorney(s) for Plaintiff

PJR CONSTRUCTION OF NEW JERSEY INC.,
SUPERIOR COURT OF NEW JERSEY
: LAW DIV: MONMOUTH COUNTY

vs.

: CIVIL ACTION

VALLEY FORGE INSURANCE
COMPANY (VFI) and NATIONAL
FIRE INSURANCE COMPANY OF
HARTFORD (NFICH)

: DOCKET NO. *MON-L-1818-17*
COMPLAINT
: DECLARATORY JUDGMENT ACTION

2017 MAY 11 P 2:29

Plaintiff, PJR Construction of New Jersey Inc., by way of Complaint
against the defendants, says:

FIRST COUNT

1. Plaintiff is and at all times material hereto, a corporation organized and existing under the Laws of the State of New Jersey, with its principal place of business at 200 Daniels Way, Freehold, Monmouth County, State of New Jersey.

2. Defendants Valley Forge Insurance Company (hereinafter "VFI") and National Fire Insurance Company of Hartford (hereinafter "NFICH") are licensed and authorized to do business as insurance companies in the State of New Jersey and are authorized to execute and deliver contracts for commercial general liability coverage in the State of New Jersey.

3. Defendants VFI and NFICH issued commercial general liability coverage

(hereinafter referred to as "the Policy") under policy number 2095329128 to plaintiff PJR Construction of New Jersey, which was in effect on August 18, 2011 through August 18, 2016. The policies issued by the defendants to plaintiff had an occurrence limit of \$1,000,000.00, a products completed limit of \$2,000,000.00 and an umbrella policy of \$15,000,000.00.

4. On or about February 18, 2016, plaintiff PJR Construction of New Jersey Reported and requested VFI and NFICH provide a defense and indemnity to the claims made against it by Cambridge Real Property, LLC.

5. Cambridge Real Property LLC., is the owner and developer of a project known as the Cambridge Club, located at 400 Lloyd Road, Aberdeen Township, Monmouth County, State of New Jersey. Cambridge Real Property LLC., entered into a contract with plaintiff PJR Construction of New Jersey to perform work and services therein.

6. On or about April 1, 2016, the defendants, at their request, had been supplied with the claim filed by Cambridge, together with PJR Construction of New Jersey's response thereto. That claim is now pending in arbitration.

7. The claim by Cambridge is in excess of \$4,000,000.00 and includes a variety of claims, for work performed by PJR Construction of New Jersey's sub-contractors, including but not limited to assessment/replacement/repair costs, which exceeded \$1,600,000.00 and for which it alleged it had to replace and remove all of the

stone on the building, roof members and the like as well as perform various repairs. That claim was amended as recently April 13, 2017 to claim additional items, including damage to the elevator shaft at the premises.

8. By letter dated May 9, 2016 and received on or about May 12, 2016, VFI and NFICH advised PJR Construction of New Jersey's counsel that it was denying the claim for defense and/or indemnity in connection with this matter. The denial was made despite the fact that the insurance policy in effect between the parties does cover property damage that is caused by an occurrence that takes place within the coverage territory, which this did, and that the damage was alleged to have occurred by work performed on PJR Construction of New Jersey's behalf, by various subcontractors.

9. The claim of Cambridge further alleges that there were delays and loss or use of the property as a result of not being able to utilize the property.

10. The term property damage is defined in the policy issued by and between the parties, at Section 17A "Property Damage Means: Physical injury to tangible property including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; and at Section 17B Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the occurrence that caused it". In addition, the term "Your Work" as defined under Section 22A means (1) work or operations performed by you or on your behalf.

11. A controversy exists between the parties concerning their respective rights

under the Policy as set forth above.

12. For the foregoing reasons, a declaratory judgment is both necessary and proper in order to set forth and determine the rights, obligations and liabilities that exist between the parties in connection with the aforementioned policy.

13. Plaintiff is entitled to reasonable attorneys' fees incurred herein.

DEMAND FOR RELIEF

WHEREFORE, plaintiff respectfully requests the Court to enter judgment as follows:

1. Declaring that the aforementioned insurance policy between the plaintiff and defendants provide a duty by defendants to indemnify and defend plaintiff for claims alleged by Cambridge;

2. Declaring the rights and other legal obligations of the plaintiff and defendants arising from the aforementioned insurance policy;

3. Awarding plaintiff attorneys fees and costs incurred in connection with defending the litigation with Cambridge and the filing of this action;

4. Such other further relief as the Court deems just and proper under the circumstances.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Ralph E. Polcari is hereby designated as Trial counsel in the within matter.

CERTIFICATION

PURSUANT to Rule 4:5-1, it is hereby stated that there is a pending arbitration proceeding between plaintiff PJR Construction of New Jersey and Cambridge Real Property LLC. Further, to the best of my knowledge, information and belief, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action.

PURSUANT to Rule 1:38-7(C) I hereby certify that confidential person identifiers have been redacted from documents and now submitted to the Court all be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b)

In addition, I recognize the continuing obligation of each party to file and serve on all parties and the Court an Amended Certification if there is a change in the facts stated in this original Certification.

I hereby certify that the foregoing statements made by me are true. I understand that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

DRAZIN AND WARSHAW
Attorneys for Plaintiffs

By:

THOMAS J. DICHIARA

Date: May 9, 2017

EXHIBIT B

DRAZIN AND WARSHAW

A PROFESSIONAL CORPORATION
COUNSELORS AT LAW
25 RECKLESS PLACE
P.O. BOX 8909
RED BANK, N.J. 07701-8909
(732) 747-3730

telefax (732) 741-0865

website
drazinandwarshaw.com

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THOMAS T. WARSHAW (1923-1995)*
DENNIS A. DRAZIN (MEMBER N.J. & N.Y. BARS)*
RONALD S. DRAZIN (MEMBER N.J. & D.C. BARS)
THOMAS J. DICHARA
VINCENT L. STRIPTO
STEVEN L. KESSEL (MEMBER N.J. & D.C. BARS)
JOHN R. CONNELLY, JR.*
BRIAN D. DRAZIN (MEMBER N.J. & GA. BARS)
CHRISTOPHER R. BROWN*
RALPH E. POLCARI
SCOTT J. SCHNEIDER
TARA L. VENT (MEMBER N.J. & N.Y. BARS)

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HAZLET, N.J. 07730
(732) 264-6800

BRICK OFFICE
937 CEDAR BRIDGE AVE.
BRICK, N.J. 08723
(732) 477-1700

*CERTIFIED BY THE SUPREME COURT OF NEW JERSEY
AS A CIVIL TRIAL ATTORNEY

May 18, 2017

Via Certified Mail, R.R.R. and First Class Mail

Valley Forge Insurance Company
P.O. Box 8317
Chicago, Illinois 60680-8317

PLEASE REPLY TO RED BANK

RE: PJR Construction of New Jersey, Inc. vs.
Valley Forge Insurance Company, et al
Docket No. MON-L-1818-17

Dear Sir or Madam:

Enclosed herewith find a Summons and Complaint with respect to the above entitled matter, for service upon you.

Please note that you have 35 days from the date you receive the enclosed, to file and serve your Answer in the Superior Court of New Jersey, Monmouth County Clerk's Office, Monmouth County Courthouse, 71 Monument Park, Freehold, New Jersey 07728.

Kindly be guided accordingly.

Very truly yours,

THOMAS J. DICHARA

TJD:tr
Enclosures

Thomas J. DiChiara, Esq. (ID 013921975)
DRAZIN & WARSHAW, P.C.
25 Reckless Place
Red Bank, NJ 07701
Attorney(s) for Plaintiff

PJR CONSTRUCTION OF NEW JERSEY INC., SUPERIOR COURT OF NEW JERSEY
: LAW DIV: MONMOUTH COUNTY

vs. : CIVIL ACTION

VALLEY FORGE INSURANCE COMPANY (VFI) and NATIONAL FIRE INSURANCE COMPANY OF HARTFORD (NFICH) : DOCKET NO. MON-L-1818-17
SUMMONS

From The State of New Jersey To The Defendant(s) Named Above:

VALLEY FORGE INSURANCE COMPANY

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at <http://www.judiciary.state.nj.us/prose/10153deptyclerklawref.pdf>.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$135.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.

/s/ Michelle M. Smith, Esq.
Clerk of the Superior Court

Date: May 18, 2017

Name of Defendant to be served: **Valley Forge Insurance Company**
P.O. Box 8317
Chicago, Illinois 60680-8317

EXHIBIT C

DRAZIN AND WARSHAW

A PROFESSIONAL CORPORATION
COUNSELORS AT LAW
25 RECKLESS PLACE
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*CERTIFIED BY THE SUPREME COURT OF NEW JERSEY
AS A CIVIL TRIAL ATTORNEY

May 18, 2017

Via Certified Mail, R.R.R. and First Class Mail

National Fire Insurance Company of Hartford
P.O. Box 8317
Chicago, Illinois 60680-8317

PLEASE REPLY TO RED BANK

RE: PJR Construction of New Jersey, Inc. vs.
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Docket No. MON-L-1818-17

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Kindly be guided accordingly.

Very truly yours,

THOMAS J. DICHARA

TJD:tr
Enclosures

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25 Reckless Place
Red Bank, NJ 07701
Attorney(s) for Plaintiff

PJR CONSTRUCTION OF NEW JERSEY INC., SUPERIOR COURT OF NEW JERSEY
: LAW DIV: MONMOUTH COUNTY

vs. : CIVIL ACTION

VALLEY FORGE INSURANCE : DOCKET NO. MON-L-1818-17
COMPANY (VFI) and NATIONAL
FIRE INSURANCE COMPANY OF
HARTFORD (NFICH) : **SUMMONS**

From The State of New Jersey To The Defendant(s) Named Above:

NATIONAL FIRE INSURANCE COMPANY OF HARTFORD

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at <http://www.judiciary.state.nj.us/prose/10153deptyclerklawref.pdf>.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$135.00 and completed Case Information Statement) if you want the court to hear your defense.

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/s/ Michelle M. Smith, Esq.
Clerk of the Superior Court

Date: May 18, 2017

Name of Defendant to be served: **National Fire Insurance Company of Hartford**
P.O. Box 8317
Chicago, Illinois 60680-8317

EXHIBIT D

CNA COVERAGE LITIGATION GROUP

Edward M. Napierkowski, Esq. (NJ Atty. ID #020291987)

Melissa A. Cornibe, Esq. (NJ Atty. ID #019182000)

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*Attorney for Defendants, Valley Forge Insurance Company and
National Fire Insurance Company of Hartford*

PJR CONSTRUCTION OF NEW JERSEY, INC.,

Plaintiff,

v.

VALLEY FORGE INSURANCE COMPANY
(VFI) AND NATIONAL FIRE INSURANCE
COMPANY OF HARTFORD (NFICH)

Defendants.

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: MONMOUTH COUNTY
:
: **DOCKET NO. MON-L 1818-17**

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: **NOTICE OF REMOVAL
TO FEDERAL COURT**
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TO: Clerk of Courts, Civil Division
Superior Court of New Jersey
Monmouth County, Law Division
71 Monument Park
Freehold, NJ 07728

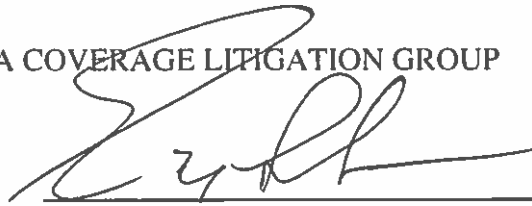
Thomas J. DiChiara, Esq.
Drazin & Warshaw, P.C.
25 Reckless Place
P.O. Box 8909
Red Bank, NJ 07701
Attorney for Plaintiff

PLEASE BE ADVISED that pursuant to 28 U.S.C. §1441 and 28 U.S.C. §1332, the
above-captioned matter has been removed to the United States District Court for the District of
New Jersey by Defendants, Valley Forge Insurance Company and National Fire Insurance
Company of Hartford.

Dated: June 12, 2017

CNA COVERAGE LITIGATION GROUP

By:



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*Counsel for Defendants,
Valley Forge Insurance Company and
National Fire Insurance Company of
Hartford*

EXHIBIT E



Page: 1

END OF LIST

VENUE : MONMOUTH COURT : LAW CVL DOCKET #: L 001818 17 CASE TITLE : PJR CONSTRUCTION OF NJ INC VS VALLEY FORGE INS CO											
SEL	DATE FILED		DOC NUM	DOCUMENT TYPE	NON CONF	FILING/TARGET PARTY NAME		ATTORNEY NAME			MUL DOC PTY STA
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Session ID: PYF1J3 Case Count: 1

BUILD 2015.6.0.02.10 Timer Count down: 296



VENUE: MONMOUTH COURT: LAW CVL DOCKET #: L 001818 17
CASE TITLE : PJR CONSTRUCTION OF NJ INC VS VALLEY FORGE INS CO

CASE FILED DATE	: 05 12 2017	CASE TYPE	: 999 OTHER
CASE STATUS	: ACTIVE	CASE INITIATION TYPE:	C COMPLAINT
DISPOSITION TYPE	:	DATE DISPOSED	: 00 00 0000
DISCOVERY DATE	:	ARGUMENT REQST DATE	: 00 00 0000
CASE PARTY COUNT	: 003	JUDGMENT ENTERED	: NO

FIRST ANSWER DATE	:	ACTUAL SERVICE DATE	:
EXPECTD SERVICE DATE:		CONSOLIDATION STATUS:	
CONSOLIDATION TYPE	:	DATE TRANSFERRED OUT:	
TRANSFER FROM VENUE	: TO	LAST PROCEEDING DATE:	
LAST PROCEEDING TYPE:		PENDING ACTION DATE	: 05 22 2017
PENDING ACTION	: PG SERVICE	DEMAND AMOUNT	: 0.00
UNDISTRIBUTED AMOUNT:	0.00	DENOVO INDICATOR	: NO
DF ATTORNEY/PRO SE	: NO DF HAS AN ATT		

CMP DISPUTE RESOLUTN:	TRIAL	TITLE 59 INDICATOR	: NO
JURY REQUEST	: NO JURY	CASE IMPOUNDED	: NO
DATE ENTERED	: 05 16 2017		

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Session ID: PYF1J3 Case Count: 1

BUILD 2015.6.0.02.10 Timer Count down: 297